

IN THE UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF NORTH CAROLINA
WESTERN DIVISION
No. 5:11-CR-352-BR

UNITED STATES OF AMERICA)
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)
)
v.) ORDER
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)
ARTHUR TRACY VICK)
)

This matter is before the court on defendant's motion for relief from a sentence enhancement. (DE # 107.) Based on United States v. Davis, 139 S. Ct. 2319 (2019), defendant challenges his sentence and requests that he be resentenced. The court construes this motion as one seeking habeas corpus relief under 28 U.S.C. § 2255. Because defendant has previously filed a § 2255 motion, he must first seek authorization from the Fourth Circuit Court of Appeals before this court can consider another § 2255 motion. See 28 U.S.C. §§ 2244(b), 2255(h). The motion is DISMISSED WITHOUT PREJUDICE. The court finds that defendant has not made "a substantial showing of the denial of a constitutional right," 28 U.S.C. § 2253(c)(2), and therefore, a certificate of appealability is DENIED.

This 9 September 2019.



W. Earl Britt
Senior U.S. District Judge